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ATTORNEYS FOR NAKESHA EDWARDS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

IN RE:

Larry Keith Lake § **CASE NO. 04-91209-dml**

Debtor. § **CHAPTER 13**

§ **Preliminary Hearing: June 25, 2009**
§ **Time: 9:30 a.m.**

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

THE TRUSTEE OR DEBTOR SHALL FILE A RESPONSE TO THIS MOTION WITHIN TWELVE (12) DAYS FROM THE DATE OF SERVICE OF THIS MOTION. THE DEBTOR'S RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THIS MOTION SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHALL NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE MUST BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT, U.S. COURTHOUSE, 501 W. 10TH STREET, FORT WORTH, TEXAS.

COMES NOW Nakesha Edwards ("Movant") and files this Motion for Relief from the Automatic Stay, and in support thereof would respectfully show the Court:

1. A voluntary petition for relief under Chapter 13 of the Bankruptcy Code was filed by Larry Keith Lake ("Debtor") on November 17, 2004 ("Debtor's Petition Date").

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This motion commences a core proceeding under 28 U.S.C. § 157(b)(2)(G).

3. On or about December 31, 2008, Movant commenced a cause of action (“Cause”) by filing an Original Petition (“Movant’s Original Petition”) in the County Court at Law No. 2, Dallas County, Texas, naming Debtor as a Defendant. A true and correct copy of Movant’s Original Petition is attached hereto as Exhibit “A” and incorporated herein by reference the same as if fully copied and set forth at length.

4. The events set forth in Movant’s Original Petition underlying the Cause occurred after Debtor’s Petition Date. Movant’s Original Petition could not have been filed before Debtor’s Petition Date. Therefore, the stay provided in 11 U.S.C. § 362(a)(1) (“Automatic Stay”) does not apply to the Cause.

5. However, Movant is arguably prevented from going forward with the Cause of Action for the reason that the Automatic Stay became effective with respect to the Debtor and the Debtor’s estate in this Chapter 13 bankruptcy case.

6. By reason of all of the foregoing, cause exists for vacating the Automatic Stay because the delay of advancing the Cause as a result of the Automatic Stay does not benefit any creditor, but on the contrary, may bring about further harm and damage to Movant.

WHEREFORE, Nakesha Edwards prays that the Court enter an order: (1) vacating the bankruptcy automatic stay as it pertains to the Cause and allowing Nakesha Edwards to take any and all actions allowed under the laws of the State of Texas necessary to take the Cause to final judgment, including, but not limited to, permitting issuance and service of process on Debtor with respect to the Cause, conducting discovery, filing and serving pretrial motions, conducting

trial, and filing appeals as necessary; and (2) for such other and further just relief as Nakesha Edwards may be entitled.

Respectfully submitted,

CORTES & JOHNSON, PLLC

By: /s/ J. Douglas Cortes
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ATTORNEYS FOR NAKESHA EDWARDS

CERTIFICATE OF CONFERENCE AND SERVICE

I hereby certify that on or about the 5th day of June, 2009, I attempted to have a conference with Sharon K. Sherman, Attorney for Debtor, but was informed Ms. Sherman would not return to the office until June 8, 2009.

I further certify that a true and correct copy of the above and foregoing Motion for Relief from the Automatic Stay was served electronically or as otherwise provided by rule, upon each person requesting or entitled to notice thereof, including, but not limited to, the persons listed below, on the 5th day of May, 2009.

Debtor's Attorney:

Sharon K. Sherman
Sherman Law Firm, P.C.
3201 W. Airport Frwy., Suite 106
Bedford, Texas 76021

Debtor:

Larry Keith Lake
913 Keller Smithfield Road South
Keller, TX 76248

U.S. Trustee:

Office of the United States Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242-0996

Chapter 13 Trustee:

Tim Truman
6851 N.E. Loop 820
Fort Worth, TX 76180-6608

/s/ J. Douglas Cortes
J. DOUGLAS CORTES